

**REMARKS**

Applicants appreciate the Examiner's attention to the above referenced application. Reconsideration of the application is respectfully requested. Claims 1, 4-8, 11-13, 16-20, 37, 40 and 41 were rejected. Claims 42-47 were subject to a restriction requirement. Claims 1, 4-8, 11-13, 16-20, 37, 40-41 are now pending, of which claims 1, 13 and 37 are independent.

**Affirmation of Election**

Restriction to the following claims was required under 35 USC § 121:

- I. Claims 1, 4-8, 11-13, 16-20, 37 and 40-41, drawn to a request to send involving a fixed number of training symbols and sending the training symbols in a clear to send signal, classified in class 370, subclass 445.
- II. Claims 42-47, drawn to achieving high throughput in a wireless system involving sending training symbols in an acknowledgment, classified in class 375, subclass 358.

As noted in the Office Action dated 12/29/2009, claims 42-47 were withdrawn from consideration by the Examiner as being directed to a non-elected invention. Applicants reserve the right to reintroduce the non-elected claims 42-47 of Group II in one or more divisional applications at a later date.

**35 USC § 112 Rejection of the Claims**

Claims 1, 4-8, 11-13, 16-20, 37 and 40-41 were rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, the Office Action asserts that the “specification fails to provide support for attaching training symbols corresponding to both the number of the transmit antennas and the number of receiving antennas. For example, figures 10-12 show the transmission of training symbols but fail to provide support for the training symbols corresponding to the transmit and receive chains.” Applicants respectfully traverse this rejection, which should be withdrawn for at least the reasons set forth herein.

It is well-established that the Examiner may only reject a claim under section 112 if it is reasonable to conclude that one skilled in the art would be unable to carry out the claimed invention. E.g., *In re Wright*, 999 F.2d 1557, 1561-62, 27 USPQ 2d 1510, 1513 (Fed. Cir. 1993). *Wright* also states that the Examiner must provide a reasonable explanation as to why he believes that the scope of protection provided by that claim is not adequately enabled by the description of the invention provided in the specification. With all due respect, the Examiner has not provided a reasonable explanation.

Claims 1, 13, and 37 call for sending “a request to transmit with attached  $N_T$  and  $N_R$  symbols, wherein  $N_T$  is the number of antennas or communication chains for transmission and  $N_R$  is the number of antennas or communication chains for reception; and receiving training symbols attached to a clear to transmit response.” Although the invention is not limited in scope to the embodiment disclosed in the specification, examples of a request to transmit and receiving a clear to transmit response used in accordance with the claimed invention was provided in Figures 6 and 7 and the corresponding discussions found in paragraphs [0066 – 0071].

In reference to Figure 7, the Applicants’ specification describes in paragraph [0069] “a method 711 directed to the operation of various embodiments of the invention disclosed may (optionally) begin with transmitting a request to transmit and the first number of training

symbols at block 721. . .” Paragraph [0071] discloses that the “method 711 may continue with receiving a clear to transmit response and the second number of training symbols at block 751. . .” As stated in the specification in paragraph [0069], “the method 711 may include transmitting a first number of training symbols corresponding to a first number of communication chains to solicit a response including a second number of training symbols corresponding to a second number of communication chains.” As further described in paragraph [0069], the number of communication chains may correspond to a number of receive chains *and*[] a number of transmit chains as desired for particular implementations of the method 711, wherein  $N_R$  is the number of receive antennas or receive chains and  $N_T$  is the number of transmit antennas or transmit chains.

Additional arguments could be made to show how the claimed subject matter is described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. However it is believed the arguments made herein overcome the existing rejections. Accordingly, Applicants respectfully traverse the rejection of claims 1, 13, and 37 and their respective dependent claims 4-8, 11-12, 16-20, and 40-41 and ask the Examiner to reconsider this rejection in view of these comments.

**CONCLUSION**

Applicant respectfully requests reconsideration in view of the remarks set forth above. If the Examiner has any questions, the Examiner is encouraged to contact the undersigned at 480-715-5432. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

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Dated: 03/23/2010

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